

## Surface Transportation Board, DOT

## § 1167.1

all known participants in the proceeding, except that a reply to a motion need only be served on the moving party.

(b) A protestant need serve only the Commission and applicant with pleadings or letters.

### § 1160.63 Replies to motions.

Replies to motions filed under this part are due within 5 days of the date the motion is filed at the Commission.

### § 1160.64 FAX filings.

FAX filings of applications and supporting evidence are not permitted. To assist parties in meeting the expedited time frames established for protesting an application, however, the Commission will accept FAX filings of protests and any reply or rebuttal evidence. FAX filings of these pleadings must be followed by the original document, plus one copy for Commission record-keeping purposes.

## PART 1166—EXTENSION OF OPERATIONS BY WATER COMMON CARRIER

Sec.

1166.1 Applicability.

1166.2 Issuance of a certificate without proof of public convenience and necessity.

1166.3 Conditions and procedures.

AUTHORITY: 49 U.S.C. 10321 and 10922; 5 U.S.C. 559.

SOURCE: 47 FR 49590, Nov. 1, 1982, unless otherwise noted.

### § 1166.1 Applicability.

The rules in this part provide special procedures by which water common carriers subject to the Commission's jurisdiction under subchapter III of chapter 105 of title 49 of the United States Code operating over a given waterway may extend their operations over newly completed sections of that waterway as they are opened to navigation. These rules implement 49 U.S.C. 10922(f)(3)(B).

### § 1166.2 Issuance of a certificate without proof of public convenience and necessity.

If a water carrier complies with the conditions and procedures set forth in

§ 1166.3 of this part, a certificate of public convenience and necessity covering extended operations over a newly opened section of a waterway will be issued without proof of public convenience and necessity.

### § 1166.3 Conditions and procedures.

To obtain a certificate under this part, a water carrier must:

(a) Hold authority to operate over a previously opened portion of the waterway involved;

(b) Institute service over the newly completed portion of the waterway within 120 days after it is opened to navigation; and

(c) File its application, on Commission Form OP-1(W), not later than the date of the filing of tariffs establishing rates and charges for transportation of passengers or property over the portion of the waterway embraced in the application, and in no event later than the date on which the extended operations are instituted.

[47 FR 49590, Nov. 1, 1982, as amended at 59 FR 63730, Dec. 9, 1994]

## PART 1167—COMPENSATED INTERCORPORATE HAULING

Sec.

1167.1 Applicability.

1167.2 Notification.

1167.3 Change in participation.

AUTHORITY: 49 U.S.C. 10321 and 10524; 5 U.S.C. 559.

SOURCE: 55 FR 11204, Mar. 27, 1990, unless otherwise noted.

### § 1167.1 Applicability.

Compensated transportation service by a member of a corporate family for other members of the same family (Compensated Intercompany Hauling or CIH) is exempt from Interstate Commerce Commission regulation if proper notice is given. To qualify for the exemption, the participants must be members of a corporate family in which the parent owns, either directly or indirectly, a 100 percent interest in the subsidiaries. However, no corporation operating chiefly as a for-hire carrier may use an affiliate operating under the exemption of 49 U.S.C.

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10524(b) to transport freight tendered to it as a carrier.

### § 1167.2 Notification.

(a) *General requirements.* The corporate parent seeking to initiate CIH must submit a FEDERAL REGISTER notice as follows:

Notice of Intent to Engage in Compensated  
Intercorporate Hauling Operations

This is to provide notice as required by 49 U.S.C. 10524(b)(1) that the named corporations intend to provide or use compensated intercorporate hauling operations as authorized in 49 U.S.C. 10524(b).

1. Parent corporation and address of principal office:

2. Wholly owned subsidiaries which will participate in the operations, and State(s) of incorporation:

(b) *Affidavit and declaration.* The notice shall include the following affidavit and declaration (which need not be notarized) by a person legally qualified to act for the parent:

I, \_\_\_\_\_, affirm that \_\_\_\_\_ is a corporation which directly or indirectly owns a 100 percent interest in the subsidiaries participating in compensated intercorporate hauling under 49 U.S.C. 10524(b), listed in the attached notice.

I declare under penalty of perjury under the laws of the United States that the foregoing is true.

\_\_\_\_\_  
(Signature and date)

(c) *To whom notice sent.* The original and one copy of the notice of intent to engage in CIH shall be sent to the Commission in an envelope marked: "CIH Notice." The Secretary's Office will issue an acknowledgment indicating whether the submission is in order, and giving a projected publication date. CIH operations may commence as soon as the required notice is placed in the mails or, if hand-delivered, upon receipt at the Commission's office.

(d) *Cover letter requirement.* Where the office that has prepared a notice for a corporate family differs from the one executing the notice, that office shall be identified in a cover letter attached to the tendered notice.

(e) *Miscellaneous.* The filing of a CIH notice does not initiate a proceeding before the Commission. Publication of a notice is a ministerial function and does not indicate Commission inves-

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tigation or affirmation of the representations appearing in the notice concerning corporate affiliation nor does it create a right of protest.

(f) *Fees.* All required filings shall include the appropriate fee. See 49 CFR part 1002.

[55 FR 11204, Mar. 27, 1990, as amended at 55 FR 47338, Nov. 13, 1990]

### § 1167.3 Change in participation.

(a) If the parent intends that an additional subsidiary participate in CIH, it shall file an updated notice.

(b) Whenever the corporate parent's interest in a subsidiary participating in CIH becomes less than 100 percent, operations under 49 U.S.C. 10524(b) by or for that subsidiary shall be discontinued and the parent shall file an updated notice within 10 days.

(c) Updated notices shall be submitted in the format required by § 1167.3(a), and will be published in the FEDERAL REGISTER.

(d) An updated notice need not be filed where an action by a corporate family affects the status of a member participating in CIH, but the scope of the operations remains unchanged—e.g., absorption of a subsidiary into a parent resulting in extinction of its separate corporate status. However, name changes require an updated notice.

## PART 1170—EMPLOYEE PROTECTION FOR MOTOR PASSENGER CARRIERS

Sec.

1170.1 Applicability.

1170.2 Application.

1170.3 Opposition.

1170.4 Commission action.

1170.5 List of available jobs.

AUTHORITY: 49 U.S.C. 10321; 5 U.S.C. 553; and Pub. L. 97-261, sec. 27.

SOURCE: 55 FR 11206, Mar. 27, 1990, unless otherwise noted.

### § 1170.1 Applicability.

Section 27 of the Bus Regulatory Reform Act of 1982 is designed to protect employees of bus companies who lose their jobs because of reduction or discontinuance of regular-route bus service. These rules govern applications